

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CROSSBOW CEMENT SA

08 Civ. 5074 (HB)

Plaintiff,

**DECLARATION OF STEPHEN
JACOBSON IN SUPPORT OF
DEFENDANT'S MOTION TO
VACATE THE ATTACHMENT**

MOHAMED ALI SALEH AL-HASHEDI &
BROTHERS,

Defendant.

-----X

STEPHEN JACOBSON, pursuant to 28 U.S.C § 1746 hereby declares that the following is true and correct under penalty of perjury:

1. I am an associate of the firm of BERNSTEIN & BERNSTEIN, LLP, attorneys for the defendant herein, MOHAMED ALI SALEH AL-HASHEDI & BROTHERS (hereinafter "Al-Hashedi" or "Defendant") and I am admitted to practice before this Court. I submit this declaration in support of Al-Hashedi's Motion to Vacate the Attachment on the grounds set forth in the accompanying memorandum of law and the facts set forth in the documents annexed to the defendant's motion papers.

2. The parties entered into a sale contract whereby Al-Hashedi purchased a quantity of Chinese bagged Portland cement from plaintiff Crossbow Cement. The contract provided for delivery in Aden. However, at the request of the defendant, the plaintiff agreed to discharge cargo at Berbera and Hodeidah, in exchange for which the sellers agreed to pay an additional lump sum.

3. Annexed hereto as Exhibit "1" is the sales contract as evidenced by pro-forma invoice number 07091/05, dated July 27, 2005.

4. Annexed hereto as Exhibit "2" is the sales contract as evidenced by pro-forma invoice number 09016/05, dated September 26, 2005, wherein the parties agreed to the cargo being discharged at Berbera and Hodeidah in exchange for a lump sum payment by the defendant.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
July 9, 2008

s/
STEPHEN JACOBSON (SJ-3615)

EXHIBIT 1

FAX OUT**CROSSBOW CEMENT SA**

Swiss Trading Company for Portland Cements



6 Avenue de Frontenex
P.O. Box 6246
1211 Geneva 8 / Switzerland
Telephone (022) 786 4511 / 77
Telex (022) 786 6979
Telex 413 810 MERP CH

MORAMED ALI SALEH AL-HASHEDI & BRO
PO BOX 5499
TAIZ / YEMEN REPUBLIC

**PROFORMA
INVOICE N° 07091/05.**

GENEVA, JULY 27TH, 2005.
PHE/BDD

**FOR 1 ORDINARY PORTLAND CEMENT, QUALITY GB175-1999 GRADE 32,5R, PACKED IN STRONG
POLYPROPYLENE BAGS (1 PLY KRAFT PAPER INNER), IN SLING-BAGS OF 40 BAGS EACH.
ORIGIN : CHINA.**

	UNIT PRICE	TOTAL PRICE
QUANTITY : ABOUT 25.000 MT	US\$ 72. --	US\$ 1.800.000.-
SHIPMENT IN ONE LOT WITHIN ABOUT 35 DAYS FROM NOTIFICATION DATE OF LC IN GOOD ORDER WITH "CREDIT SUISSE" IN GENEVA/SWITZERLAND, - ENGLISH LAW TO APPLY/LONDON ARBITRATION CLAUSE, - DISCHARGING RATE : MINIMUM 1.500 MT PWWD FHEX UU, - TIME TO START COUNTING AS PER "GENCON" C/P TERMS, - DEMURRAGE : US\$20.000 PER DAY OR PRORATA, PAYABLE EVERY 3 DAYS IN ADVANCE, - PAYMENT BY IRREVOCABLE CONFIRMED TRANSFERABLE LETTER OF CREDIT PAYABLE AT SIGHT WITH "CREDIT SUISSE" IN GENEVA/SWITZERLAND AGAINST PRESENTATION OF :	PER MT CFR FREE OUT ADEN (1 SAFE PORT).	
1) COMMERCIAL INVOICES, 2) FULL SET OF 3/3 "CHARTER-PARTY" MARINE BILLS OF LOADING MARKED "FREIGHT PREPAID" "FREE OUT", 3) ORIGIN CERTIFICATE, 4) ANALYSIS CERTIFICATE, 5) PACKING AND WEIGHT LIST, 6) INSPECTION CERTIFICATE FOR QUALITY/QUANTITY ISSUED BY RELEVANT CHINESE AUTHORITIES.		
SPECIAL CLAUSES :		
1) INDEX +/- ALLOWED ON AMOUNT AND QUANTITY, 2) "CHARTER-PARTY" BL/S AUTHORIZED, 3) ALL BANK CHARGES/CONFIRMATION/COMMISSIONS OUTSIDE "CREDIT SUISSE" FOR APPLICANTS/OPENERS ACCOUNT, 4) THIRD PARTY DOCUMENTS ACCEPTABLE. VALIDITY FOR CONFIRMATION : JULY 31 st , 2005. LAST TIME FOR LC OPENING : AUGUST 7TH, 2005. *****		

MOHAMED ALI SALEH AL-HASHEDI & BRO
M.A.S.H
TAIZ - YEMEN REPUBLIC

EXHIBIT 2

CROSSBOW CEMENT SA

Swiss Trading Company for Portland Cements



FAX OUT

6, avenue de Frontenex
P.O. Box 8246
1211 Geneva 6 / Switzerland
Telephones (022) 788 46 11 / 77
Telefax (022) 788 69 79
Telex 413 510 MERP CH

MOHAMED ALI SALEH AL HASHEDI AND
P.O. BOX 5499
TAIZ, YEMEN REPUBLIC

INVOICE NO. 09016/05.

GENEVA, SEPTEMBER 26TH, 2005
PHE/BDD

REF : SHIPMENT OF 27.500 M/TONS CHINESE ORDINARY PORTLAND CEMENT GB 175-1999 GRADE 32,5R BY MV "SEABOSS 1" FROM LONGKOU/CHINESE PORT TO ADEN PORT/YEMEN AS PER BL/S DATED 3/9/2005.

LIC NO TS00385

TOTAL PRICE

FOR :
CHANGING DISCHARGING PORT AS FIRST BERBERA/SOMALIA
FOR 5.000. M/TONS, WHERE TIME TO START COUNTING AS
PER "GENCON" CHARTER-PARTY TERMS, WHERE FULL D/A
PAYABLE BY BUYERS TO THEIR APPOINTED LOCAL SHIPPING
AGENTS, INCLUDING ALL TAXES/DUES/CHARGES/LEVIES
AND EXPENSES WHATSOEVER.
DISCHARGING RATE MINIMUM 1.500 TONS PER WWD
PER EX-UU, TIME STARTING TO COUNT AS PER "GENCON",
DEMURRAGE : US\$20.000.- PER DAY OR PRORATA, PAYABLE
BY BUYERS TO SELLERS EVERY 3 DAYS IN ADVANCE,
THEN BALANCE OF 22500 M/TONS DISCHARGED AT SECOND
PORT HODEIDAH/YEMEN WHERE D/A FOR SHIPOWNERS'
ACCOUNT.
DISCHARGING RATE AT HODEIDAH : 1.500 M/T FWWD
PER EX-UU, TIME TO START COUNTING AS PER "GENCON"
CHARTER-PARTY TERMS, DEMURRAGE : US\$ 20.000.- PER
DAY OR PRORATA, PAYABLE BY BUYERS TO SELLERS EVERY
3 DAYS IN ADVANCE.

PAYABLE BY TELEGRAPHIC REMITTANCE ON 27TH, VALUE
27TH, TO : CREDIT SUISSE

17, RUE DE LAUSANNE
1211 GENEVA 70/SWITZERLAND
SWIFT : CRESCHZZ12A
IBAN : CH09 0425 1067 6636 6200 0
FAVOUR ACCOUNT NUMBER 676636-62.

LUMPPUM

US\$ 75.000.-

CROSSBOW CEMENT SA

MOHAMED ALI SALEH AL HASHEDI & BRO.
M.A.S.
TAIZ - YEMEN REPUBLIC